



Applicant: PETERSON *et al.*
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IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE PATENT APPLICATION OF: Jay PETERSON *et al.*
SERIAL NO.: 09/708,713
ATTORNEY DOCKET NO: 032028-0311061
FILING DATE: November 9, 2000
ART UNIT : 2884
CONFIRMATION NO.: 8439
EXAMINER Albert J. Gagliardi
FOR: UNMANNED INTEGRATED OPTICAL REMOTE EMISSIONS SENSOR (RES) FOR MOTOR VEHICLES

SUPPLEMENTAL INFORMATION DISCLOSURE STATEMENT

Commissioner for Patents
P.O. Box 1450
Alexandria, VA. 22313-1450

Dear Sir:

Pursuant to the duty of disclosure under 37 C.F.R. §§ 1.56, 1.97 and 1.98, Applicants hereby make of record, in the above-identified application, the document listed on the attached Form PTO-1449, as well as the information set forth herein.

Applicants have listed a date on the attached PTO-1449 based on information presently available. However, the listed date should not be construed as an admission that the information was actually published on the date indicated.

In the March 23, 2007 "Notice of Allowability" (hereinafter "Notice"), at pg. 3, ¶13, the Examiner notes that a copy of the following document was included with the references

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cited in the February 25, 2005 Supplemental Information Disclosure Statement, despite *not* being listed on the corresponding Form PTO-1449 (that accompanied this submission):

Stationary OREM System
Small Hardened Environmental Pollution Sensor (SHEPS)
for On-Road Emissions Measurements
June 1995¹

The Examiner further indicated that the foregoing document (hereinafter the "SHEPS Reference") was not considered because of the following reasons:

...while the document includes a date of June 1995 (suggesting availability as prior art), the pages of the document are stamped "SBRC Proprietary/Competition Sensitive", which begs the question as to whether or not the reference qualifies as a publication and/or whether it was actually known by others.

...

...the executive summary characterizes the document as a proposal to *develop and demonstrate* the SHEPS instrument (emphasis added), which begs the question of "if" and "when" the SHEPS system was developed, or whether it was merely an idea that was not reduced to practice.

[Notice, pg. 3, ¶3].

The Examiner goes on to recite that "*...from at least a cursory review, it does appear that the reference may be extremely relevant if such reference is later submitted as qualifying prior art reference*" [Notice, ¶3, pgs. 3-4].

Applicants apologize for the inadvertent omission of the SHEPS Reference from the Form PTO-1449 that accompanied the February 25, 2005 Supplemental Information

¹ The listed "June 1995" date should not be construed as an admission that the information was actually "published" on the this date.

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Disclosure Statement. In response to the Examiner's comments, Applicants provide the following remarks.

Environmental Systems Products Holdings Inc. (hereinafter "ESPH") is the current assignee of the instant application, which is a Reissue of U.S. Pat. No. 5,726,450 (the "'450 Patent"). The application (U.S. Patent Application Serial No. 08/739,487) which issued as the '450 Patent was acquired by Envirotech Systems Corp. (hereinafter "Envirotech") from Hughes Aircraft Company² (hereinafter "Hughes"). Envirotech subsequently assigned the application to ESPH.³

The SHEPS Reference appears to be a proposal associated with Hughes.

As the Examiner correctly notes, the pages of the SHEPS Reference are stamped "SBRC Proprietary/Competition Sensitive." It is not currently known by ESPH whether or not the SHEPS Reference was "publicly available" as of June, 1995.

To date, ESPH has not located further information that indicates when, if at all, the SHEPS Reference may have been made public.

Based on the information to date, ESPH is not aware of the SHEPS Reference as being a qualifying prior art reference.

ESPH will continue to investigate and supplement this information with any additional information that is discovered regarding the SHEPS Reference.

² See Assignment recorded on 09/10/2003 at Reel 014472, Frame 0852.

³ See Assignment recorded on 09/11/2003 at Reel 014487, Frame 0611.

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ESPH reserves the right to establish the patentability of the claimed invention over any of the information provided herewith, and/or to prove that this information may not be prior art, and/or to prove that this information may not be enabling for the teachings purportedly offered.


This Supplemental Information Disclosure Statement is being filed within three months of the filing date of a national application other than a continued prosecution application under 37 C.F.R. §1.53(d), or within three months of the date of entry of the national stage as set forth in 37 C.F.R. §1.491 in an international application, or before the mailing date of a first Office Action on the merits, or **before the mailing date of a first Office Action after the filing of a request for continued examination under 37 C.F.R. §1.114.** No certification or fee is required. 37 C.F.R. §1.97(b).

The Examiner is invited to telephone the undersigned, at the number provided, with any questions or concerns.

Date: June 25, 2007

Respectfully submitted,

By:



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